United Nations S/2011/725

Security Council

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The Security Council,

Recalling its previous resolutions concerning the situation in Somalia, especially resolutions 1814 (2008), 1816 (2008), 1838 (2008), 1844 (2008), 1846 (2008), 1851 (2008), 1897 (2009), 1918 (2010), 1950 (2010), 1976 (2011), and 2015 (2011), as well as the Statement of its President (S/PRST/2010/16) of 25 August 2010,

Continuing to be gravely concerned by the ongoing threat that piracy and armed robbery at sea against vessels pose to the prompt, safe, and effective delivery of humanitarian aid to Somalia and the region, to the safety of seafarers and other persons, to international navigation and the safety of commercial maritime routes, and to other vulnerable ships, including fishing activities in conformity with international law, and also gravely concerned by the extended range of the piracy threat into the western Indian Ocean and adjacent sea areas, and the increase in pirate capacities,

Expressing concern about the reported involvement of children in piracy off the coast of Somalia,

Recognizing that the ongoing instability in Somalia contributes to the problem of piracy and armed robbery at sea off the coast of Somalia, and stressing the need for a comprehensive response by the international community to repress piracy and armed robbery at sea and tackle its underlying causes,

Recognizing the need to investigate and prosecute not only suspects captured at sea, but also anyone who incites or intentionally facilitates piracy operations, including key figures of criminal networks involved in piracy who illicitly plan, organize, facilitate, or finance and profit from such attacks and *reiterating its concern* over a large number of persons suspected of piracy having to be released without facing justice, *reaffirming* that the failure to prosecute persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia undermines anti-piracy efforts of the international community and *being determined* to create conditions to ensure that pirates are held accountable,

Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia, including Somalia's rights with respect to offshore natural resources, including fisheries, in accordance with international law,

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recalling the importance of preventing, in accordance with international law, illegal fishing and illegal dumping, including of toxic substances, and *stressing* the need to investigate allegations of such illegal fishing and dumping, and *noting with appreciation* in this respect the report of the Secretary-General on the protection of Somali natural resources and water (S/2011/661) prepared pursuant to paragraph 7 of Security Council Resolution 1976 (2011),

Further reaffirming that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982 ("The Convention"), sets out the legal framework applicable to combating piracy and armed robbery at sea, as well as other ocean activities,

Again taking into account the crisis situation in Somalia, and the limited capacity of the Transitional Federal Government (TFG) to interdict, or upon interdiction to prosecute pirates or to patrol or secure the waters off the coast of Somalia, including the international sea lanes and Somalia's territorial waters,

Noting the several requests from the TFG for international assistance to counter piracy off its coast, including the letter of 10 November 2011, from the Permanent Representative of Somalia to the United Nations expressing the appreciation of the TFG to the Security Council for its assistance, expressing the TFG's willingness to consider working with other States and regional organizations to combat piracy and armed robbery at sea off the coast of Somalia, and requesting that the provisions of resolution 1897 (2009) be renewed for an additional twelve months,

Commending the efforts of the EU operation Atalanta, North Atlantic Treaty Organization operations Allied Protector and Ocean Shield, Combined Maritime Forces' Combined Task Force 151, and other States acting in a national capacity in cooperation with the TFG and each other, to suppress piracy and to protect vulnerable ships transiting through the waters off the coast of Somalia, and *welcoming* the efforts of individual countries, including China, India, Islamic Republic of Iran, Japan, Malaysia, Republic of Korea, Russian Federation, Saudi Arabia, and Yemen, which have deployed ships and/or aircraft in the region, as stated in the Secretary-General's report (S/2011/662),

Welcoming the capacity-building efforts in the region made by the International Maritime Organization (IMO) Djibouti Code of Conduct, the Djibouti Code of Conduct Trust Fund, and the Trust Fund Supporting Initiatives of States Countering Piracy off the Coast of Somalia, and recognizing the need for all engaged international and regional organizations to cooperate fully,

Noting with appreciation the efforts made by IMO and the shipping industry to develop and update guidance, best management practices, and recommendations to assist ships to prevent and suppress piracy attacks off the coast of Somalia, including in the Gulf of Aden and the Indian Ocean area, and *recognizing* the work of the IMO and the Contact Group on Piracy off the Coast of Somalia ("CGPCS") on privately contracted armed security personnel on board ships in high-risk areas.

Noting with concern that the continuing limited capacity and domestic legislation to facilitate the custody and prosecution of suspected pirates after their capture has hindered more robust international action against the pirates off the coast of Somalia, and in some cases has led to pirates being released without facing justice, regardless of whether there is sufficient evidence to support prosecution, and

reiterating that, consistent with the provisions of the Convention concerning the repression of piracy, the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation ("SUA Convention") provides for parties to create criminal offences, establish jurisdiction, and accept delivery of persons responsible for or suspected of seizing or exercising control over a ship by force or threat thereof or any other form of intimidation,

Underlining the importance of continuing to enhance the collection, preservation and transmission to competent authorities of evidence of acts of piracy and armed robbery at sea off the coast of Somalia, and *welcoming* the ongoing work of IMO, INTERPOL and industry groups to develop guidance to seafarers on preservation of crime scenes following acts of piracy, and noting the importance for the successful prosecution of acts of piracy of enabling seafarers to give evidence in criminal proceedings,

Noting the consensus at the ninth plenary session of the CGPCS on 14 July 2011 to establish a formal Working Group 5 on "illicit financial flows linked to piracy off the coast of Somalia",

Further recognizing that pirates are turning increasingly to kidnapping and hostage-taking, and that these activities help generate funding to purchase weapons, gain recruits, and continue their operational activities, thereby jeopardizing the safety and security of innocent civilians and restricting the flow of free commerce,

Reaffirming international condemnation of acts of kidnapping and hostage-taking, including acts condemned in the International Convention against the Taking of Hostages, and *strongly condemning* the continuing practice of hostage-taking by suspected pirates operating off the coast of Somalia, *expressing serious concern* at the inhuman conditions hostages face in captivity, *recognizing* the adverse impact on their families, *calling for* the immediate release of all hostages, and *noting* the importance of cooperation between Member States on the issue of hostage-taking and the need for the prosecution of suspected pirates for taking hostages,

Commending the Republic of Kenya and the Republic of Seychelles' efforts to prosecute suspected pirates in their national courts, welcoming the engagement of the Republic of Mauritius and the United Republic of Tanzania, and *noting* with appreciation the assistance being provided by the United Nations Office on Drugs and Crime (UNODC), the Trust Fund Supporting Initiatives of States Countering Piracy off the Coast of Somalia, and other international organizations and donors, in coordination with the CGPCS, to support Kenya, Seychelles, Somalia, and other States in the region, including Yemen, to take steps to prosecute, or incarcerate in a third state after prosecution elsewhere, pirates, including facilitators and financiers ashore, consistent with applicable international human rights law, and emphasizing the need for States and international organizations to further enhance international efforts in this regard,

Welcoming the readiness of the national and regional administrations of Somalia to cooperate with each other and with States who have prosecuted suspected pirates with a view to enabling convicted pirates to be repatriated back to Somalia under suitable prisoner transfer arrangements, consistent with applicable international law including international human rights law,

Welcoming the report of the Secretary-General (S/2011/662), as requested by resolution 1950 (2010), on the implementation of that resolution and on the situation with respect to piracy and armed robbery at sea off the coast of Somalia,

Taking note with appreciation of the report of the Secretary-General on the modalities for the establishment of specialized Somali anti-piracy courts (S/2011/360) prepared pursuant to paragraph 26 of resolution 1976 (2011), and the ongoing efforts within the CGPCS and the United Nations Secretariat to explore possible additional mechanisms to effectively prosecute persons suspected of piracy and armed robbery at sea off the coast of Somalia, including those ashore who incite or intentionally facilitate acts of piracy,

Stressing the need for States to consider possible methods to assist the seafarers who are victims of pirates, and welcoming in this regard the ongoing work within the CGPCS and the International Maritime Organization on developing guidelines for the care of seafarers and other persons who have been subjected to acts of piracy,

Further noting with appreciation the ongoing efforts by UNODC and UNDP to support efforts to enhance the capacity of the corrections system in Somalia, including regional authorities notably with the support of the Trust Fund Supporting Initiatives of States Countering Piracy off the Coast of Somalia, to incarcerate convicted pirates consistent with applicable international human rights law,

Bearing in mind the Djibouti Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden, and *recognizing* the efforts of signatory States to develop the appropriate regulatory and legislative frameworks to combat piracy, enhance their capacity to patrol the waters of the region, interdict suspect vessels, and prosecute suspected pirates,

Emphasizing that peace and stability within Somalia, the strengthening of State institutions, economic and social development and respect for human rights and the rule of law are necessary to create the conditions for a durable eradication of piracy and armed robbery at sea off the coast of Somalia, and *further emphasizing* that Somalia's long-term security rests with the effective development by the TFG of the National Security Force, including the Somali Police Force, in the framework of the Djibouti Agreement and in line with a national security strategy,

Welcoming in this regard that the 6 September 2011 Roadmap to end the transition in Somalia calls for the TFG to develop counter-piracy policy and legislation in conjunction with regional entities, and the declaration of an Exclusive Economic Zone (EEZ), as key tasks of the Transitional Federal Institutions (TFIs), and notes that the Security Council has made its future support to the TFIs contingent upon the completion of the tasks contained in the Roadmap,

Determining that the incidents of piracy and armed robbery at sea off the coast of Somalia exacerbate the situation in Somalia, which continues to constitute a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Reiterates* that it condemns and deplores all acts of piracy and armed robbery against vessels in the waters off the coast of Somalia;

2. *Recognizes* that the ongoing instability in Somalia is one of the underlying causes of the problem of piracy and contributes to the problem of piracy and armed robbery at sea off the coast of Somalia;

3. *Stresses* the need for a comprehensive response to repress piracy and tackle its underlying causes by the international community;

4. *Recognizes* the need to investigate and prosecute not only suspects captured at sea, but also anyone who incites or intentionally facilitates piracy operations, including key figures of criminal networks involved in piracy who illicitly plan, organize, facilitate, or finance and profit from such attacks;

5. *Calls upon* States to cooperate also, as appropriate, on the issue of hostage-taking, and the prosecution of suspected pirates for taking hostages;

6. *Notes again* its concern regarding the findings contained in the 20 November 2008 report of the Monitoring Group on Somalia (S/2008/769, page 55) that escalating ransom payments and the lack of enforcement of the arms embargo established by resolution 733 (1992) are fuelling the growth of piracy off the coast of Somalia, *calls upon* all States to cooperate fully with the Somalia and Eritrea Monitoring Group including on information sharing regarding possible arms embargo violations;

7. *Renews* its call upon States and regional organizations that have the capacity to do so, to take part in the fight against piracy and armed robbery at sea off the coast of Somalia, in particular, consistent with this resolution and international law, by deploying naval vessels, arms and military aircraft and through seizures and disposition of boats, vessels, arms and other related equipment used in the commission of piracy and armed robbery at sea off the coast of Somalia, or for which there are reasonable grounds for suspecting such use;

8. *Commends the work* of the CGPCS to facilitate coordination in order to deter acts of piracy and armed robbery at sea off the coast of Somalia, in cooperation with the IMO, flag States, and the TFG and *urges* States and international organizations to continue to support these efforts;

9. *Encourages* Member States to continue to cooperate with the TFG in the fight against piracy and armed robbery at sea, notes the primary role of the TFG in the fight against piracy and armed robbery at sea off the coast of Somalia, and *decides* that for a further period of twelve months from the date of this resolution to renew the authorizations as set out in paragraph 10 of resolution 1846 (2008) and paragraph 6 of resolution 1851 (2008), as renewed by paragraph 7 of resolution 1897 (2009), and paragraph 7 of resolution 1950 (2010), granted to States and regional organizations cooperating with the TFG in the fight against piracy and armed robbery at sea off the coast of Somalia, for which advance notification has been provided by the TFG to the Secretary-General;

10. *Affirms* that the authorizations renewed in this resolution apply only with respect to the situation in Somalia and shall not affect the rights or obligations or responsibilities of Member States under international law, including any rights or obligations, under the Convention, with respect to any other situation, and underscores in particular that this resolution shall not be considered as establishing customary international law; and *affirms further* that such authorizations have been

renewed only following the receipt of the 10 November 2011 letter conveying the consent of the TFG;

11. *Further affirms* that the measures imposed by paragraph 5 of resolution 733 (1992) and further elaborated upon by paragraphs 1 and 2 of resolution 1425 (2002) do not apply to weapons and military equipment destined for the sole use of Member States and regional organizations undertaking measures in accordance with paragraph 9 above or to supplies of technical assistance to Somalia solely for the purposes set out in paragraph 6 of resolution 1950 (2010) which have been exempted from those measures in accordance with the procedure set out in paragraphs 11 (b) and 12 of resolution 1772 (2007);

12. *Requests* that cooperating States take appropriate steps to ensure that the activities they undertake pursuant to the authorizations in paragraph 9 do not have the practical effect of denying or impairing the right of innocent passage to the ships of any third State;

13. *Calls on* Member States to assist Somalia, at the request of the TFG and with notification to the Secretary-General, to strengthen capacity in Somalia, including regional authorities, to bring to justice those who are using Somali territory to plan, facilitate, or undertake criminal acts of piracy and armed robbery at sea, and *stresses* that any measures undertaken pursuant to this paragraph shall be consistent with applicable international human rights law;

14. *Calls upon* all States, and in particular flag, port, and coastal States, States of the nationality of victims, and perpetrators of piracy and armed robbery, and other States with relevant jurisdiction under international law and national legislation, to cooperate in determining jurisdiction, and in the investigation and prosecution of all persons responsible for acts of piracy and armed robbery off the coast of Somalia, including anyone who incites or facilitates an act of piracy, consistent with applicable international law including international human rights law to ensure that all pirates handed over to judicial authorities are subject to a judicial process, and to render assistance by, among other actions, providing disposition and logistics assistance with respect to persons under their jurisdiction and control, such as victims and witnesses and persons detained as a result of operations conducted under this resolution;

15. *Calls upon* all States to criminalize piracy under their domestic law and to favourably consider the prosecution of suspected, and imprisonment of convicted, pirates apprehended off the coast of Somalia, and their facilitators and financiers ashore, consistent with applicable international law including international human rights law;

16. *Reiterates* its decision to continue its consideration, as a matter of urgency, of the establishment of specialized anti-piracy courts in Somalia and other States in the region with substantial international participation and/or support, as set forth in resolution 2015 (2011), and the importance of such courts having jurisdiction over not only suspects captured at sea, but also anyone who incites or intentionally facilitates piracy operations, including key figures of criminal networks involved in piracy who illicitly plan, organize, facilitate, or finance and profit from such attacks, and *emphasizes* the need for strengthened cooperation of States, regional, and international organizations in holding such individuals accountable, and encourages the CGPCS to continue its discussions in this regard;

17. *Urges* all States to take appropriate actions under their existing domestic law to prevent the illicit financing of acts of piracy and the laundering of its proceeds;

18. *Urges* States, in cooperation with INTERPOL and Europol, to further investigate international criminal networks involved in piracy off the coast of Somalia, including those responsible for illicit financing and facilitation;

19. *Commends* INTERPOL for the creation of a global piracy database designed to consolidate information about piracy off the coast of Somalia and facilitate the development of actionable analysis for law enforcement, and *urges* all States to share such information with INTERPOL for use in the database, through appropriate channels;

20. *Stresses* in this context the need to support the investigation and prosecution of those who illicitly finance, plan, organize, or unlawfully profit from pirate attacks off the coast of Somalia;

21. *Urges* Sates and international organizations to share evidence and information for anti-piracy law enforcement purposes with a view to ensuring effective prosecution of suspected, and imprisonment of convicted, pirates;

22. *Commends* the establishment of the Trust Fund Supporting the Initiatives of States Countering Piracy off the Coast of Somalia and the International Maritime Organization (IMO) Djibouti Code Trust Fund and *urges* both state and non-state actors affected by piracy, most notably the international shipping community, to contribute to them;

23. *Urges* States parties to the Convention and the SUA Convention to implement fully their relevant obligations under these Conventions and customary international law and cooperate with the UNODC, IMO, and other States and other international organizations to build judicial capacity for the successful prosecution of persons suspected of piracy and armed robbery at sea off the Coast of Somalia;

24. *Urges* States individually or within the framework of competent international organizations to positively consider investigating allegations of illegal fishing and illegal dumping, including of toxic substances, with a view to prosecuting such offences when committed by persons under their jurisdiction; and *takes note* of the Secretary-General's intention to include updates on these issues in his future reports relating to piracy off the Coast of Somalia;

25. *Welcomes* the recommendations and guidance of the IMO on preventing and suppressing piracy and armed robbery against ships, *underlines* the importance of implementing such recommendations and guidance by all stakeholders, including the shipping industry, and *urges* States, in collaboration with the shipping and insurance industries, and the IMO, to continue to develop and implement avoidance, evasion, and defensive best practices and advisories to take when under attack or when sailing in the waters off the coast of Somalia, and further urges States to make their citizens and vessels available for forensic investigation as appropriate at the first port of call immediately following an act or attempted act of piracy or armed robbery at sea or release from captivity;

26. *Invites* the IMO to continue its contributions to the prevention and suppression of acts of piracy and armed robbery against ships in coordination, in particular, with the United Nations Office on Drugs and Crime (UNODC), the World

Food Programme (WFP), the shipping industry, and all other parties concerned, and *recognizes* the IMO's role concerning privately contracted armed security personnel on board ships in high-risk areas;

27. *Notes* the importance of securing the safe delivery of World Food Programme (WFP) assistance by sea, *welcomes* the ongoing work by WFP, EU operation Atalanta and Flag States with regard to Vessel Protection Detachments on WFP vessels;

28. *Requests* States and regional organizations cooperating with the TFG to inform the Security Council and the Secretary-General in 9 months of the progress of actions undertaken in the exercise of the authorizations provided in paragraph 9 above and further requests all States contributing through the CGPCS to the fight against piracy off the coast of Somalia, including Somalia and other States in the region, to report by the same deadline on their efforts to establish jurisdiction and cooperation in the investigation and prosecution of piracy;

29. *Requests* the Secretary-General to report to the Security Council within 11 months of the adoption of this resolution on the implementation of this resolution and on the situation with respect to piracy and armed robbery at sea off the coast of Somalia;

30. *Expresses* its intention to review the situation and consider, as appropriate, renewing the authorizations provided in paragraph 9 above for additional periods upon the request of the TFG;

31. *Decides* to remain seized of the matter.